

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

KEVIN J. LANGENHUIZEN,

Plaintiff,

Case No. 20-cv-250-pp

v.

ANDREW M. SAUL,

Defendant.

**ORDER GRANTING PLAINTIFF'S MOTION FOR LEAVE TO PROCEED
WITHOUT PREPAYING THE FILING FEE (DKT. NO. 3)**

The plaintiff has filed a complaint seeking judicial review of a final administrative decision denying his claim for disability insurance benefits under the Social Security Act. Dkt. No. 1. He also filed a motion for leave to proceed without prepaying the filing fee. Dkt. No. 3.

To allow the plaintiff to proceed without paying the filing fee, the court first must decide whether the plaintiff can pay the fee; if not, it must determine whether the lawsuit is frivolous. 28 U.S.C. §§1915(a) and 1915(e)(2)(B)(i).

Based on the facts in the plaintiff's affidavit, the court concludes that he does not have the ability to pay the filing fee. The plaintiff indicates that he is not employed, he is married, and he has no dependents he is responsible for supporting. Dkt. No. 3 at 1. The plaintiff receives no monthly wages or salary, the only income he lists is his spouse's monthly wages of \$1,695. *Id.* at 3. The plaintiff lists \$1,515 in monthly expenses (\$525 mortgage, \$135 cell phone,

\$90 internet, \$150 electric/gas, \$175 groceries, \$50 water + sewer, \$150 property taxes, \$105 health insurance, \$135 car, truck and homeowners insurance). Id. at 2-3. The plaintiff owns a 2010 Kia Forte worth approximately \$1,129 and another vehicle worth approximately \$1,171 (although the make, model and year are not listed, the court assumes it is the truck he says he pays insurance on). Id. at 2. The plaintiff owns his home, which is worth approximately \$100,800 with equity of \$55,000, he does not own any other property of value, and he has \$275 in cash on hand or in a checking or savings account. Id. at 2, 4. The plaintiff has demonstrated that he cannot pay the \$350 filing fee and \$50 administrative fee.

The next step is to determine whether the case is frivolous. A case is frivolous if there is no arguable basis for relief either in law or in fact. Denton v. Hernandez, 504 U.S. 25, 31 (1992) (quoting Nietzke v. Williams, 490 U.S. 319, 325 (1989); Casteel v. Pieschek, 3 F.3d 1050, 1056 (7th Cir. 1993)). A person may obtain district court review of a final decision of the Commissioner of Social Security. 42 U.S.C. §405(g). The district court must uphold the Commissioner's final decision as long as the Commissioner used the correct legal standards and the decision is supported by substantial evidence. See Roddy v. Astrue, 705 F.3d 631, 636 (7th Cir. 2013).

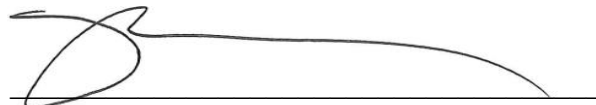
The plaintiff's complaint indicates that he was denied Social Security Disability Insurance for lack of disability, that he is disabled, and that the Commissioner's conclusions and findings of fact when denying benefits are not supported by substantial evidence and are contrary to federal laws and

regulations. Dkt. No. 1 at 1-2. At this early stage in the case, and based on the information in the plaintiff's complaint, the court concludes that there may be a basis in law or in fact for the plaintiff's appeal of the Commissioner's decision, and that the appeal may have merit, as defined by 28 U.S.C. §1915(e)(2)(B)(i).

The court **GRANTS** the plaintiff's motion for leave to proceed without prepaying the filing fee. Dkt. No. 3.

Dated in Milwaukee, Wisconsin this 19th day of February, 2020.

BY THE COURT:

A handwritten signature in black ink, appearing to be 'P. Pepper', written over a horizontal line.

HON. PAMELA PEPPER
Chief United States District Judge